IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

NORMA SUMMERS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	
	)	Jury Trial Demanded
Portfolio Recovery Associates, LLC	)	
Defendant.	)	
	)	

COMPLAINT

INTRODUCTION

1. This is an action brought by the Plaintiff, Norma Summers, for actual and statutory damages, punitive damages, attorney's fee and costs for Defendant's negligent and willful violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§1692 et seq. (hereafter "FDCPA")

JURISDICTION

2. Subject matter jurisdiction in this Court is proper pursuant to 15 U.S.C. §1692k(d), 15 U.S.C. §1681p and 28 U.S.C. §1331, §1332 and §1367. (federal question jurisdiction).

3. Venue is proper in this District because the acts and transactions occurred here, Defendant transacts business here and Plaintiff resides here.

PARTIES AND PERSONAL JURISDICTION

4. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 3 above as if set forth fully herein.

5. Plaintiff, Norma Summers, (hereafter referred to as "Plaintiff") is a resident of this State, District and Division who is authorized by law to bring this action.

6. Defendant Portfolio Recovery Associates, LLC. (hereafter referred to as "Defendant") is a "debt collector" as defined by 15 U.S.C. §1692a(6), and a for-profit corporation organized in Virginia, with its principal office located at 120 Corporate Blvd., Suite 100, Norfolk, VA, 23502-4962 and maintains Corporation Service Company, 2908 Poston Ave., Nashville, Tennessee, 37203-1312, as its registered agent for service of process.

7. Defendant was in all respects and at all times relevant herein doing business in the state of Tennessee.

8. Defendant is a "debt collector" as defined by 15 U.S.C. §1692a(6) of the FDCPA.

9. Other defendants may be discovered in the course of litigation, and Plaintiff respectfully prays that the Court will permit the addition of later discovered parties upon motion.

FACTUAL ALLEGATIONS

10. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 9 above as if set forth fully herein.

11. Upon information and belief, plaintiff incurred separate debts Synchony Bank (Walmart Credit Card), Synchrony Bank (JC Penney Credit Card), Comenity Bank, formerly known as World Financial Bank Network Bank (Lane Bryant) and Comenity Bank, formerly known as World Financial Bank Network Bank (Catherines) whereby payments were not made.

12. Plaintiff, based upon information and belief, asserts that Defendant is the collection agent for Synchony Bank (Walmart Credit Card), Synchrony Bank (JC Penney Credit Card), Comenity Bank, formerly known as World Financial Bank Network Bank (Lane Bryant) and Comenity Bank, formerly known as World Financial Bank Network Bank (Catherines). See Exhibit A.

13. Plaintiff filed a Chapter 13 Bankruptcy on March 9, 2015 and listed Walmart Credit Card, JC Penney Credit Card, Lane Bryant and Catherines. See exhibit B.

14. Further, based upon information and belief Comenity Capital Bank, also known as Comenity Bank received notice of Plaintiff's bankruptcy filing and filed a Proof of Claim (Claim #24) for a separate account. See Exhibit C.

15. Based upon information and belief, Comenity Bank and Comenity Capital Bank share the same service address of record; PO Box 182025 Columbus, OH 43218-2025.

16. Defendant sent Plaintiff numerous collection notices dating from October 19, 2016 through February 17, 2017 for all of the above listed debts. See again Exhibit A.

17. Further, based upon information and belief, Defendant was verbally told of Plaintiff's bankruptcy on October 25, 2016, yet Defendant repeatedly sent collection letters to Plaintiff for several months thereafter.

CAUSES OF ACTION

COUNT ONE: THE FAIR DEBT COLLECTION PRACTICES ACT: FALSE, DECEPTIVE, OR MISLEADING REPRESENTATION

17. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 16 above as if set forth fully herein.

18. Defendant alleges Plaintiff incurred several obligations to pay money arising out of a transaction in which money, property, insurance or services which are the subject of the transaction are primarily for personal family or household purposes, and is therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

19. Specifically, Plaintiff had financial obligations to pay for Synchony Bank (Walmart Credit Card), Synchrony Bank (JC Penney Credit Card), Comenity Bank, formerly known as World Financial Bank Network Bank (Lane Bryant) and Comenity Bank, formerly known as World Financial Bank Network Bank (Catherines).

20. The collection letters, specifically Exhibit A, are correspondence from Defendant and are considered “communications” made in connection with collection of a debt and in an attempt to collect a debt as that term is defined by 15 U.S.C. §1692a(2).

21. The acts of Defendant constitute violations of the Fair Debt Collection Practices Act. Defendant’s violations of the FDCPA include, but are not limited to, using false, deceptive or misleading representation in connection with the collection of the debt is a violation of 15 U.S.C. §1692e as Defendant’s collection statements are false, deceptive and misleading.

22. Defendant’s collection letters are false, deceptive and misleading because they cannot legally collect debts that are in an active bankruptcy; unless they file a timely claim and get paid in the bankruptcy.

23. As a result of Defendant’s actions, Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney fees.

COUNT TWO: THE FAIR DEBT COLLECTION PRACTICES ACT UNFAIR PRACTICES

24. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 23 above as if set forth fully herein.

25. The acts of Defendant constitute violations of the Fair Debt Collection Practices Act. Defendant's violations of the FDCPA include, but are not limited to, using unfair, unconscionable means to collect its debt in a violation of 15 U.S.C. §1692f.

26. Defendant is attempting to collect debts listed in an active bankruptcy for which a claim to be paid through the bankruptcy was not timely filed for Synchony Bank (Walmart Credit Card), Synchrony Bank (JC Penney Credit Card), Comenity Bank, formerly known as World Financial Bank Network Bank (Lane Bryant) and Comenity Bank, formerly known as World Financial Bank Network Bank (Catherines) and for which the original creditor hired an attorney to timely file a claim actively being paid inside the Chapter 13 plan.

27. The acts of Defendant constitute violation of the FDCPA as the Defendant is attempting to collect from Plaintiff more money than it is legally and contractually allowed to collect in violation of 15 U.S.C. §1692f(1).

28. As a result of Defendant's actions, Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney fees.

TRIAL BY JURY

29. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 28 above as if set forth fully herein.

30. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. amend. 7. Fed.R.Civ.P. 38.

AMOUNT OF DAMAGES DEMANDED

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands a judgment against Defendant for the following:

A. Actual and/or statutory damages from Defendant for Plaintiff's actual damages suffered as a direct and proximate result of Defendant's violations of the FDCPA, pursuant to 15 U.S.C. §1692k(a)(1);

B. Judgment against Defendant for $1,000 in statutory damages for Defendant's violations of the FDCPA, pursuant to 15 U.S.C. §1692k (a)(2);

C. Judgment against Defendant for Plaintiff's reasonable attorneys' fees and costs incurred in this action, pursuant to 15 U.S.C. §1692k (a)(3); and

D. Punitive damages in an amount to be determined by a jury; and

E. For such other and further relief as the Court may deem just and proper.

Respectfully submitted this 18th day of October, 2017.

Norma Summers

BY: /S/ Cynthia T. Lawson____

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